IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9234 OF 2007

Narayan Hari Ghangrekar and anr. ...Petitioners

Versus

Sudam Tukaram Gadkari and anr. ....Respondents

R.S.Datar, Adv. for the petitioners.

None for the respondents.

CORAM: S.C.DHARMADHIKARI, J.

18th December, 2007.

P.C. :

1. Heard Mr.Datar appearing for the petitioner.

2. Perused the order of the lower Appellate Court. The lower Appellate Court has relied upon the statement which was made by defendant no.1 on 29.8.1992. The said defendant/respondent no.1 has in the statement

stated that the original plaintiff/respondent before me is in the possession of the suit lands from prior thereto. From 1992-93 till 2004-05 the revenue entries are in the name of the respondent/original plaintiff. In such circumstances, the lower Appellate Court has disbelieved the version of the present petitioners which is based on the sale deed in their favour dated 5.6.2005. In such circumstances, the lower Appellate court's order restraining them from disturbing the possession of the respondent no.1/original plaintiff, except, by due process of law cannot be said to be based on no materials or perverse so as to warrant interference under Article 227 of the Constitution of India. Petition is dismissed.

3. Considering the fact that the first respondent/original plaintiff is aged 75 years and that the petitioners are relying upon a sale deed in their favour and some of them also being senior citizens, the Trial Court is directed to hear and decide Reg.Civil Suit No. 101 of 2005 as expeditiously as possible, and in any event, by 31.7.2008. Petition dismissed. No costs.

4. However, the Trial court not to rely upon any observations of the lower Appellate court, as also, of this court. the same are tentative and made for the purposes of the disposal of the present petition and at an inter-locutory stage.

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